



THE STATE
of ALASKA

GOVERNOR BILL WALKER

Department of Natural Resources

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November 1, 2018

Terri Marceron
Forest Supervisor, Chugach National Forest
161 East 1st Street, Door 8
Anchorage, Alaska 99501

Re: Chugach National Forest Draft Land Management Plan

Dear Ms. Marceron,

The State of Alaska (State) supports the Forest Service's (Service) commitment to involve state agencies as partners in addressing issues affecting management of the forest and the considerable effort of forest planning staff to develop a planning document that addresses a variety of management issues identified through the planning process. A close working relationship allows agencies to identify areas of management concern as well as possible solutions. Having reviewed the Chugach National Forest Draft Land Management Plan / Environmental Impact Statement (Forest Plan), the State provides the following consolidated comments where changes or clarifications are needed to accurately reflect the implementation of existing federal laws and policies as they relate to federally managed public lands and Conservation System Units (CSUs) in Alaska and where page specific changes are either necessary, or suggested, for clarity and accuracy.

In general, the Forest Plan should recognize and clearly identify where the Alaska National Interest Lands Conservation Act (ANILCA) provisions apply to public lands and CSUs and the limits ANILCA placed on the Service regarding the study of lands for inclusion in the Wilderness and Wild and Scenic Rivers systems. The Forest Plan should accurately identify the segments of the Iditarod National Historic Trail (INHT) that are not a federally managed CSU because they are on State lands and/or within existing State Rights-of-ways. Similarly, only Congressionally designated trails are CSUs in Alaska, and the text should reflect this important fact. Further comments center on state ownership of navigable waters, State management of fish and wildlife resources, public and commercial use of resources, land selections, travel management, and recreation and commercial uses. These comments are detailed below and are followed by a number of page specific comments.

ANILCA Allowances

The Chugach National Forest (CNF or Forest) is not a CSU under ANILCA. However, ANILCA expanded the forest and designated the Nellie Juan-College Fiord Wilderness Study Area (WSA) and provided specific management direction for the Copper/Rude River area (the 501(b) area). While these areas are not CSUs, certain provisions in ANILCA apply to specific areas and others apply forest-wide. For example, Sections 811 and 1110 of ANILCA, which allow specific methods of access for subsistence use and other traditional activities apply to the WSA; whereas, of these two Sections, only Section 811, the subsistence access provision, applies to the Section 501(b) expansion area. ANILCA is very clear that methods of access identified “shall” be authorized, subject to reasonable regulation, which means the Forest is open to these uses unless closed or restricted for site specific reasons. While the Service does not have ANILCA implementing regulations for these specific provisions, they can refer to the public closure processes that have been codified in Department of Interior agency regulations for guidance.

It is important for the Forest Plan to accurately identify where applicable provisions in ANILCA apply on the forest and for management direction in the plan to be consistent with those provisions, both for public awareness and plan implementation purposes. For example, the following page specific comment identifies a statement in the Forest Plan that needs to be corrected or clarified. Several other statements that need clarification are identified in the page specific section of this letter.

- Page 22, Resource Development and Use, #1, second sentence: The plan indicates that private inholdings will be provided “reasonable access.” Two distinct provisions in ANILCA apply to inholdings in Alaska. Section 1110(b) grants access *rights* as needed to assure *adequate and feasible access for economic and other purposes* and applies to state and private inholdings within or effectively surrounded by ANILCA designated CSUs. ANILCA Section 1323 indicates that non-federally owned land within the boundaries of the National Forest (non-CSU lands) shall be provided access the Secretary deems adequate to secure reasonable use and enjoyment. Please ensure the plan clarifies which provision applies where.

Wilderness and Wild and Scenic River Study Recommendations

The revised Forest Plan includes a new wilderness study for the purpose of forwarding new wilderness recommendations to Congress for the WSA and carries forward the 2002 Chugach Forest Plan’s recommendations for new wild and scenic rivers. As provided in earlier comments during the planning process, the State does not support the studies conducted during this planning process or the previous 2002 planning process because they violate provisions in ANILCA, listed below, that preclude the study or creation of new CSUs in Alaska, absent explicit direction from Congress.

The Forest Service indicated they conducted these studies because they are a requirement of the current planning rule; however, the planning rule does not override ANILCA or other governing

statutes or the Forest Service's own planning regulations that state: "Plans must comply with all applicable laws and regulations..." (36 CFR 219.1(f)). ANILCA preempts the rule's requirement to conduct studies in Alaska for the purposes of recommending new CSUs or for other similar purposes, including:

ANILCA Section 101(d):

*This Act provides sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska, and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people... **Congress believes that the need for future legislation designating new conservation system units... has been obviated thereby.*** [emphasis added]

Section 708(4):

*Unless expressly authorized by Congress the Department of Agriculture **shall not conduct any further statewide roadless area review and the evaluation of National Forest System Lands in the State of Alaska for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.*** [emphasis added].

ANILCA Section 1326(b):

No further studies of Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress. [emphasis added]

ANILCA defines designated wilderness and wild and scenic rivers as CSU's and the Forest Service's recommendations would result in the designation of new CSUs located within the national forest. These recommendations stem from new studies not authorized by ANILCA or a subsequent Act of Congress and thus violate ANILCA Section 1326(b) and the overall intent of Congress expressed in ANILCA Section 101(d), which show that Congress clearly retained for itself the sole authority for future studies or reviews for the purpose of creating additional CSUs in Alaska.

ANILCA Section 704 provides the only direction from Congress to study Forest Service lands in Alaska for consideration as designated wilderness. Specifically, Section 704 designated the WSA and directed a review of the designated lands in accordance with section 3(c) and (d) of the Wilderness Act. ANILCA explicitly directed the Forest Service to issue a report on the area's suitability or non-suitability to the President and Congress *within three years* of the passage of the Act (1980). Congress has provided no further direction to conduct additional studies on Service lands in Alaska for potential wilderness designation; therefore, including a new wilderness study in the plan revision (i.e. wilderness inventory and evaluation) violates ANILCA Section 1326(b).

ANILCA also amended the Wild and Scenic Rivers Act and designated both wild and scenic rivers and rivers designated for study, none of which were located on Service lands. Congress has provided no further direction to the Service to conduct wild and scenic river studies in Alaska. While we understand the Service is carrying forward wild and scenic river recommendations from a previous study, those recommendations were not the result of a congressionally-directed study and therefore violate ANILCA Section 1326(b).

We are aware that the Service stated previously that when wilderness and wild and scenic river reviews are housed within a larger land management plan they are not conducted for the “*single purpose of considering the establishment of a CSU*” and therefore do not conflict with ANILCA Section 1326(b); however, such justification is inconsistent with the stated purposes and results of the studies. Where they are housed is not relevant.

ANILCA’s legislative history also emphasized the importance of including Section 1326 in the Act.¹

¹ Title XII – Administrative Provisions

“No More” The Committee bill contains two provisions which I think are absolutely necessary to reassert Congress’ authorities in the matter of land designations: (1) the revocation of the monuments and the other FLPMA withdrawals which were made last year by the Administration to put pressure on the legislative process, and (2) the exemption of Alaska from the wilderness study provisions of FLPMA in the just belief that with passage of this bill “enough is enough”.

However, one further critical provision is lacking. With the designation of over 100 million acres by this bill, coupled with the 50 million acres of units already existing in Alaska, nearly 40 percent of the land mass of the State would be within conservation systems. Surely that sufficiently meets even the most generous allocation of land for this specific purpose to the exclusion of most other land uses. Should this bill become law, we in Alaska must have some assurance that this represents a final settlement of the nation’s conservation interests. We cannot continue to be exposed to the threats and intimidation of a zealous Executive which may feel in the future that the Congress did not meet the Administrations desires for land designations in Alaska.

Thus, absent from this bill is a provision barring further conservation system designations through administration action such as the Antiquities Act. Obviously, the Congress could act again in the future if it were so inclined, but the arbitrary permanent removal of federal lands from the public domain can no longer be left to the Executive in Alaska. Deletion of such a provision in this bill is a serious deficiency which must be corrected prior to any final action.” (Senate Report No. 96-413, pg. 446, Senator Gravel)

A later version of the Alaska lands legislation, the so-called Tsongas Substitute for H.R. 39, was amended to include the language now found in ANILCA Section 1326. During the August 18, 1980 Senate floor debate on the Tsongas Substitute, Senator Stevens explained that the Alaska State Legislature had asked the Alaska delegation to address seven consensus points that were not originally contained in the bill:

“I have uniformly responded to questions in those areas [Alaska communities] concerning the revised Tsongas substitute. This substitute now is a version of the Senate Energy Committee bill, but it does not satisfy the seven points that our State legislature asked us to address in connections with this legislation.

I have told Alaskans that while I cannot vote for the Tsongas substitute, I think it has to be judged as being a compromise that is better than the existing situation under the national monuments and certainly better than those the President has indicated he will impose if a bill does not pass.

Our State legislature asked us to address seven points. We call them the consensus points.....

We therefore request the Forest Plan defer to the wilderness recommendation that was submitted to Congress by the Service within the 3-year timeframe required in ANILCA and remove all wild and scenic river recommendations in the final revised plan.

Further, Congress' failure to act has resulted in forest multiple-use lands now being managed more restrictively as defacto CSUs for decades, a factor that should be taken into consideration in both planning and Service policies. Instead of maintaining the status quo, Forest Plans should include alternatives that propose to remove recommended designations not acted upon by Congress, to allow for other uses to occur on Forest lands consistent with the National Forest Management Act of 1976.

For example, the previously conducted WSR studies can be used for other purposes, such as a further indicator of the suitability of the Chugach Forest for recreation. Every eligible or suitable river, but the Snow River, is deemed to have outstandingly remarkable recreational value and four of the rivers are deemed suitable for designation solely because of their recreational values. Support and management for a wide variety of recreational opportunities should be a focus of the Forest Service and not simply limited use under Wild and Scenic River management actions.

State Navigable Waters

The nine rivers that are considered "suitable" and recommended in the Forest Plan for inclusion in the National Wild and Scenic River System includes rivers that were navigable-in-fact at the time of statehood. Unless Congress clearly intended to withhold title to rivers that were navigable-in-fact from the future state, title vested in the State at statehood. As written, the Plan appears to repudiate the State's claims of ownership or that the conflicting ownership claims are of no significance for management. For example, the objectives on page 51 include filing in stream flow reservations and mineral withdrawals on at least one recommended wild and scenic river within ten years of the plan approval. Those navigable waters vested to the State should be identified and the plan must clearly state that the management intent applies only to the federally managed uplands. Otherwise the State must conclude its title to those navigable waters has been repudiated.

The fifth injunction of the legislature was to be sure that there is what we call a no-more provision. This was a provision I insisted on in 1978. It was in the so-called Huckaby bill. It was in the bill that almost was approved in 1978. That clause is not in the committee bill. It is in the revised Tsongas substitute because the agreement we had in committee that when the bill had reached its final version on the floor of the Senate, the committee would agree to the no more clause. Realizing that the Tsongas revised substitute may be final version, the Senator from Massachusetts, at my request, has included that." (Congressional Record – Senate August 18, 1980, pg. S11047) Senator Stevens later in the floor debate formally introduced Amendment No. 1967 to H.R. 39 for the following purpose:

"To provide congressional oversight for major modifications of areas established or expanded by this Act and to require congressional approval for future major executive withdrawals of certain public lands in Alaska."

The amendment containing the essential wording of Section 1326 was adopted and became part of the Tsongas substitute. That bill was approved by the Senate on August 19, 1980 and by the House on November 12, 1980.

Portage Curve Multimodal Trail Project

The Alaska Department of Transportation and Public Facilities (ADOT&PF) has been working cooperatively with the Service for the past several years to develop workable, cost-effective solutions for this project to incorporate into the design concept for the Seward Highway Milepost 75-90 Road and Bridge Rehabilitation Project. The proposed trail provides a safer transportation alternative for foot and bicycle traffic within the highway right-of way (ROW) and also provides a connection to other recreation facilities and segments of the INHT located outside of the highway ROW.

The trail was initially identified in the Service's project scoping notice as a connecting link to historic segments of the INHT, implying that once constructed it will be a segment of the INHT, a congressionally designated unit of the National Trails System (NTS). As such, it could also be considered an ANILCA CSU. We have found other statements with similar implications in the draft revised plan for the CNF. For example:

- Page 41: Consistent with statutory and regulatory requirements, continue to coordinate with State of Alaska Department of Transportation and Public Facilities and the Federal Highway Administration to support highway right-of-way adjustments that provide for public safety, maintain public access to the national forest, implement sections of the Iditarod National Historic Trail system, and protect national and cultural resources.
- Page 32, #4: The remaining segments of Iditarod National Historic Trail to be completed are prioritized, have potential funding sources identified, and are constructed as funding becomes available.
- Page 137: The Forest Service received a Transportation Alternatives Program grant from the State of Alaska in 2016 for seven miles of proposed trail and associated trailheads along the Seward Highway from Twentymile Creek to Ingram Creek and for a trail segment connecting to the Trail of Blue Ice in Portage Valley. This proposed recreation infrastructure is part of the INHT Southern Trek project and would provide a critical link for the Iditarod trail system and to other recreation venues, such as the Alaska Railroad and Whistle Stop recreation areas and the Alaska Wildlife Conservation Center near Portage. This proposed project is within the roaded natural class along the Seward Highway and Portage Valley Highway.

While the EA for the trail includes the Service's commitment to not consider any portion of the proposed project for inclusion in the national historic trail system in the future, any indication that the boundaries of the INHT are or could be located within the Seward Highway ROW would present unique management challenges for both the Service and ADOT&PF, and present additional unintended consequences associated with funding for current and future highway projects and restrictions associated with Section 4(f) of the Department of Transportation Act. Therefore, it is critical that the final decision document for the project and the revised Forest Plan provide additional clarification about the status of the proposed trail and other historic

segments of the INHT located within the Seward Highway and Alaska Railroad Rights-of-Way (ROW). Specifically, neither the proposed trail nor the historic segments within these ROWs are segments of the INHT, units of the NTS, or CSUs under ANILCA.

The National Trails System Act designated the INHT as a “route of approximately two thousand miles extending from Seward Alaska to Nome Alaska..., following the routes as depicted on maps identified as “Seward-Nome Trail” in the Bureau of Outdoor Recreation’s September 1977 study report. The route is actually a trail system made up of a primary trail route connecting Seward and Nome, and over thirteen hundred miles of other trails which connect the Alaska Road Commission’s Seward to Nome Route with gold strikes, communities, and access points.” (Page 4-5, Iditarod Comprehensive Management Plan (CMP)) These primary and connecting routes cross federal, state, local, and private lands; however, only segments on federal lands were considered part of the initial INHT system. Segments on non-federal lands can only become components of the system if requested by the landowner and through cooperative agreements (Page 61 CMP).

As a congressionally-designated unit of the NTS, in 1980 ANILCA designated the INHT as a CSU. The definition of CSU in ANILCA also includes any unit established, designated, or expanded into the future. Numerous provisions in ANILCA address use and access in CSUs, which apply to federally-managed portions of the INHT. However, only federally managed segments of the INHT are considered CSUs under ANILCA; federal agencies can only manage segments of the INHT located on non-federal lands by way of a cooperative agreement with the non-federal land manager.

The CMP indicates the Seward Highway overlays the historic Granite Creek/Ingram Creek connecting trail segment, which is located within the project area and is managed by the State of Alaska (Page 91 CMP); likewise, the CMP indicates the Alaska Railroad overlays the historic primary trail segments from Moose Pass to Girdwood, which is located within the project area and managed by the State’s Alaska Railroad Corporation (Page 78, CMP). The only management recommendations in the plan for these segments are to “mark highway segments with the appropriate symbol” (Page 78), and to “construct a parallel recreational trail between Seward and Portage adjacent to, but outside of, existing railroad and highway rights-of-way” (Page 87). The plan does not recommend establishing rights-of way for segments that correspond to existing highways and secondary roads, including the Seward Highway, “because use is established, and public access is assured” (Page 78). The Seward Highway was conveyed to the State of Alaska in 1959 pursuant to Section 21 of the Alaska Omnibus Act, which preceded the designation of the INHT as part of the National Trail System in 1978. Conveyance was secured by an exclusive use highway ROW.

The NTSA recognizes that due to subsequent development as motorized transportation routes, many trail segments may no longer be available for travel as a trail and as such, can be identified as segments which link to the historic trail (NTSA, Section 5(b)(11)(a)). Section 7(c) of the NTSA states “When a national historic trail follows existing public roads, developed rights-of-way or waters, and similar features of man’s non-historically related development,

approximating the original location of a historic route, such segments may be marked to facilitate retracement of the historic route, and where national historic trail parallels an existing public road, such road may be marked to commemorate the historic route.” In a Memorandum of Agreement (MOA) between the Bureau of Land Management and the State of Alaska (1987), the State agreed to protect continued public use of the INHT segments located outside the highway ROW by allowing public use of highway ROW to access such segments (MOA Page 3). The MOA also provides a procedure by which a State agency can formally request the designation of an INHT segment on State managed land (MOA Page 2); the State has not requested INHT designation for any portion of the Seward Highway.

Therefore, based upon the conveyance of the Seward Highway to the State by an exclusive use highway ROW, the acknowledgements and recommendations in the CMP, and the NTA’s recognition that historic trail use may be precluded by subsequent development, any historic connecting segments of the INHT located within the Seward Highway ROW, whether currently identified in the CMP or identified in the future, are not components of the INHT system, nor subject to federal management and therefore, are not managed by the Forest Service or defined by ANILCA as a CSU. In order for the project to proceed within the Seward Highway ROW, both the Forest Service’s final decision document for the project and the revised Forest Plan must reflect this understanding.

Further, because the project is jointly planned by the Service and the State, and the primary purpose of the project is for safe transportation along the Seward Highway and adjacent areas, the State is sufficiently comfortable that Section 4(f) restrictions will not be applicable to future uses of the pathway. However, the statement on page 137 in the draft revised Chugach National Forest Land Management Plan states:

The Forest Service received a Transportation Alternatives Program grant from the State of Alaska in 2016 for **seven miles of proposed trail and associated trailheads along the Seward Highway from Twentymile Creek to Ingram Creek and for a trail segment connecting to the Trail of Blue Ice in Portage Valley. This proposed recreation infrastructure is part of the INHT Southern Trek project and would provide a critical link for the Iditarod trail system and to other recreation venues, such as the Alaska Railroad and Whistle Stop recreation areas and the Alaska Wildlife Conservation Center near Portage.**

The bolded portion of the statement would lead a reader to believe that the project would create an INHT trail segment with a primary purpose of recreation. As written, that bolded statement would make it much more difficult for the State to defend a determination of the inapplicability of Section 4(f). The State requests that the above bolded statement be replaced with a statement worded as close as possible to the accurate statement below, which is from page 32 of the Portage Curve Multimodal Trail Project’s EA.

Provision of dedicated multimodal pathways separate from the Seward Highway, as well as grade-separated pathway crossings to connect recreational amenities on either side of the Seward highway should reduce hazards associated with current pedestrian and bicyclist use of the shoulders of a high-speed, high capacity roadway. ... Provision of

safe multimodal transport access along the Seward Highway and adjacent areas is the primary purpose of the project.

National Recreation Trails

The plan revision, at Page 32, misidentifies the Resurrection Pass National Recreation Trail (NRT) and the Williwaw NRT as CSUs as defined by ANILCA. Under ANILCA and the National Trail System Act (NTSA), CSUs may only be established or modified by Congress. Congress did not designate the Resurrection Pass NRT or the Williwaw NRT (both trails were designated by executive action) and, therefore, these trails are not CSUs.

The 2002 Chugach Forest Plan states that “consistent with ANILCA, the following areas on the Chugach National Forest shall be managed as if they were Conservation System Units (CSUs): the Wilderness Study Area; areas recommended for Wilderness designation: rivers recommended for Wild, Scenic and Recreational River designation: and, National Recreation Trails (including Resurrection Pass National Recreation Trail and Williwaw National Recreation Trail).” Page 3-42 (*italics added*). Where legally allowed (see above wilderness and wild and scenic river study comments), preserving select National Forest System properties’ characteristics and qualities for possible future designation by Congress is understandable, and managing those properties as if they were CSUs is a non-objectionable management directive to fulfill the temporary preservation goal. The State requests that the plan revision, at Page 32, be corrected to explain that the Resurrection Pass NRT and Williwaw NRT are *not* CSUs.

If the Service is attempting to establish new CSUs by executive action, which would be contrary to the requirements of ANILCA and the NTSA, then the plan revision and its EIS will need to detail the legal authorities for the proposed action and the administrative and public processes undertaken by the Service to complete the executive action.

Commercial Timber Harvest

The plan states on page 39 that “the Forest does not currently have a commercial timber program, and is not proposing one because the land that is available for timber production is inadequate to provide a flow of timber on a reasonably predictable basis...” We ask that you establish lands suitable for timber production at a level greater than 0 acres. While the plan states that only a few thousand acres are suitable for commercial timber harvest and that roughly 99 percent of the forest is subject to the roadless rule, as the nation’s second largest national forest, the Service could be doing more to foster a productive commercial timber harvest program on the Forest.

We are pleased that the Service and Division of Forestry (DOF) have begun working together on a Good Neighbor Authority project in the Forest in the Granite Creek area. The Service is funding DOF’s work to thin the forest for improved forest health. While we appreciate the chance for our fire crews to work in their slow season on forestry projects to improve forest health, this same work could perhaps instead be accomplished at a gain to the Service, by

holding a timber sale. Working to develop a small timber industry within the Forest would provide opportunities in the future for a variety of positive outcomes, including hazardous fuels mitigation, forest health projects, and probably most important in the coming years, the removal of spruce beetle-killed hazard trees. Such an industry would also support the Service in reaching Forest Plan Goals 2 -- Contribute to Social and Economic Sustainability, and Goal 3 -- Provide for Ecological Sustainability. The hazards posed by beetle-kill include falling trees that can damage utilities, infrastructure, property, and people in public use areas, as well as creating falling hazards for wildland fire-fighters and increasing jack-strawed conditions that increase resistance to control of wildfires.

Fire suppression around communities in the Forest have eliminated some of the natural disturbance that would normally create opportunities for new growth and a variety of stand ages. In the absence of a natural fire regime, forest management (whether it is called “timber harvest,” “fuels management,” “forest health projects,” or “thinning”) can help create both ecological sustainability and a healthy forest. Most national forests allow for commercial timber harvest to help them complete management objectives.

Travel Management

The plan appears to indicate that as a result of the 2005 Travel Management Rule (36 CFR 212), Forest plans will no longer contain travel management direction; therefore, previous travel management decisions will remain in effect, but any future decisions will be made in a separate public process pursuant to 36 CFR 212 (pages 8, 210-212). While the Plan indicates it is strategic in nature and does not authorize projects or activities and does not commit the Service to take action (page 1), it also states “All projects and activities must be consistent with the Forest Plan.” (page 8). We are therefore concerned with the potential effect of the parameters established with this plan on future travel management decisions. The final plan needs to succinctly clarify the intent for travel management, including public access that is authorized by ANILCA. We remind the Service, that access restrictions authorized by ANILCA, can only be restricted through a separate public process that involves notice and hearings to ensure the Service’s decisions are informed by the affected public.

Additionally, there are numerous known access routes, including RS 2477s, and known navigable waters within the planning area. To ensure current planning decisions and future travel management decisions recognize and do not curtail existing legal access absent a subsequent public process, we request the following language be included when discussing RS 2477 routes:

The State of Alaska asserts numerous claims to roads, trails, and paths across Federal lands under Revised Statute 2477 (RS 2477), a section in the Mining Act of 1866 that states, “The right-of-way for the construction of highways over public lands, not reserved for public uses, is hereby granted.” RS 2477 was repealed by the Federal Land Policy and Management Act of 1976, subject to valid existing claims.

Assertion and identification of potential rights-of-way does not establish the validity of these claims nor the public's right to use them. The validity of all RS 2477 rights-of-way will be determined on a case-by-case basis, either through the courts or by other legally binding document. The State of Alaska has identified routes on the Forest it asserts may be claimed as rights-of-way under RS 2477

Management of State Selections

The State supports efforts to ensure consistency with State plans and allowed uses in this planning process, however, in addition to the legal issues regarding wilderness and wild and scenic river studies identified above, we are opposed to any wilderness designations on State selections. The Glacier Island selection was reinstated as part of the Alaska Land Transfer Acceleration Act. The management intent for this selection within the Prince William Sound Area Plan provides for commercial recreation and access to private lands, which places it in direct conflict with a Wilderness management designation. Therefore, we request the wilderness recommendations on State selections, particularly Glacier Island, are removed in the final plan.

Mining

The plan does not adequately recognize and consider valid existing mining claims, both Federally and State owned, as well as claims located on State selected lands, including approved mining activities, and their existing legal access routes. More specifically, the plan needs:

- broader discussion concerning how existing mineral rights are considered in planning decisions, including the potential for recommending wilderness area designations in areas of high mineral potential.
- further evaluation of the direct and indirect effects that proposed management will have on access to and development of locatable, leasable and salable mineral deposits on both Federal, State and State-Selected parcels.
- further evaluation of potential direct and indirect effects that management decisions will have on existing legal access to existing or prior Federal Mining Claims under State Selection. The Mining Section advocates for the preservation of these legal access routes in the event the Selection area is conveyed to the State.
- more emphasis on the significance of mining in the planning area from a cultural and economic potential perspective. Additionally, the potential for State Selection, or where State Selection exists, should be heavily weighed when considering wilderness area designations.

We request that State land be identified separately on map 11; Acres open to mineral entry, versus withdrawn/segregated from mineral entry (page 189, DEIS). Currently, the map reflects portions of the planning area owned by the State as "Areas withdrawn/segregated from Mineral Entry or Private Lands". We feel this would support the scope of review as the Forest has included mineral entry on State Land in the cumulative impact (spatial scale) analysis described on page 187.

Fish and Wildlife Management and Recreation Opportunities

The Alaska Department of Fish and Game (ADF&G) is the state agency responsible for the management of fish and wildlife across the State and its mission includes a commitment to ensuring that people have opportunities to use and enjoy Alaska's fish and wildlife resources. The following comments primarily focus on issues reflecting those missions.

We note the Forest Plan includes extensive desired conditions, standards, and guidelines related to fish and wildlife habitat under Goal 3 Provide for Ecological Sustainability, and we support the CNF's commitment to maintaining fish and wildlife habitat.

The discussion on page 4 of the Forest Plan is informative in its description of the State of Alaska and its authorities and interests on Service administered areas, including the recognition of ADF&G as the primary manager of fish and wildlife on the Forest (as well as all other lands within the State). We also appreciate the recognition and intent of the Service to continue to support ADF&G's research and monitoring programs on Service lands, which are often done in collaboration.

We realize that the Master Memorandum of Understanding (MMOU) between the U.S. Forest Service Alaska Region and ADF&G has expired; however, many of the Forest Plan's goals, desired conditions and objectives relate to resident fish and wildlife, for which ADF&G has primary management responsibility, regardless of land ownership. We request that the MMOU be placed in the Appendix to provide guidance for the manner in which the Service and ADF&G cooperate.

We request that Desired Condition 6 under Goal 1, Foster Collaborative Relationships, be rewritten and moved up in the Desired Condition list to No. 4 (not to negate the importance of youth camps, but as a fellow land and resource manager we believe a higher priority should be accorded to the State), to say:

The Forest Service seeks a collaborative relationship with the State of Alaska (e.g., Alaska Departments of Fish and Game, Natural Resources, Environmental Conservation, and Transportation) to deal with, and resolve, the inevitable land and resource management challenges that emerge due to each entity's respective management authorities. The Service seeks to acknowledge other agencies' management responsibilities and authorities and work in cooperative partnership with them to achieve sustainable land stewardship for the Forest area.

ADF&G routinely conducts fish and wildlife management and research on the Forest, often in collaboration with the Service, and other times independently. ADF&G and the Forest share many of the same goals, and we value the positive working relationship ADF&G has with Forest staff. The WSA sometimes presents special challenges in conducting management and research because of restrictions related to access, equipment, and disturbance. The existing guidance in the Region 10 Supplement to Service Manual 2320 has been clear and helpful in this regard, and we request the Service ensure the Forest Plan is consistent with this existing guidance.

References to two other documents we believe are formative to Service wilderness management policies for activities ADF&G needs to conduct in the Nellie Juan WSA seem to be missing from the Forest Plan; the Service document "Expectations Regarding State of Alaska Administrative Activities in National Forest Wilderness", December 3, 2009 and the Association of Fish and

Wildlife Agencies (AFWA) “Policies and Guidelines for Fish and Wildlife Management in National Forest and Bureau of Land Management Wilderness” (as amended June, 2006). We request the Service review both documents and work with ADF&G before the plan is finalized to identify any needed changes to management standards and guidelines for the WSA. As described in detail below, there are places where the Forest Plan’s management of uses within the WSA could be interpreted as conflicting with the existing guidance.

Recreation

Because of our commitment to ensuring the public has the opportunity to use and enjoy Alaska’s fish and wildlife, we are very concerned with the public’s ability to access recreation locations within the State; the CNF being one of the primary recreation areas in Southcentral Alaska. Our comments below reflect our concerns with the recreation aspects of the Forest Plan.

We support the focus of the EIS’s Revision Topic 2, ensuring that the public’s desire for outdoor recreation opportunities is met. We point out that outdoor recreation, as documented in the EIS, has been a driving cultural force in Alaska’s population (ADNR, Statewide Outdoor Comprehensive Recreation Plan, 2009; Outdoor recreation by Alaskans: projections for 2000 through 2020, Bowker, 2001) aligning it with helping the Service to meet Goal 2 Contribute to Social and Economic Sustain.

We are concerned that overall guidance in the plan appears to promote wilderness like recreation experiences throughout most management areas, to the potential detriment of future public recreation via lost opportunities for trails, boat launches, hardened campsites, and cabins, for example. We understand that the plan does not explicitly prohibit recreation infrastructure in most areas; however, neither does the plan support it. We are concerned that when there is a proposal for the Forest Service to accommodate public demand for recreation at a project implementation level, there will not be sufficiently clear support in the Plan. When considered in conjunction with the Wilderness areas managed by other agencies and the Service’s multiple-use mandate, we believe that outside of the WSA, the Service should focus on providing less restrictive recreational opportunities. As examples, MA 2 Wild, Scenic, and Recreational Rivers (WSR) Desired Condition 5 states that “recommended or designated wild river areas provide opportunities for solitude” despite the fact that the Wild and Scenic River Act states that “wild river areas are characterized by rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted,” without mentioning solitude; MA 4 Backcountry Areas – Desired condition 1 is to “provide opportunities for solitude and isolation when traveling cross-country” and the overall management approach is to provide opportunities for solitude and isolation when traveling cross-country; and MA 8 Front Country, while saying such opportunities may be limited, touches on opportunities for solitude and quiet travel.

We are concerned by this approach for several reasons, including:

- Beyond MA 8, specialized skills will be required for people accessing the areas and will result in self-imposed limits, keeping use numbers low. However, ANILCA specifically included sections 811 and 1110 to allow motorized access across similarly remote areas set aside as CSUs, often to allow for the continuation of traditional hunting and fishing activities. We believe the Service should craft language for all areas of the Forest to allow such traditional activities to continue and, in all areas except MA 1, avoid

Wilderness Act phraseology that could, in the future, be used to preclude such activities. In regard to hunting and MA 2 Wild, Scenic, and Recreation Rivers, we point to Section 13(a) of the WSR Act which states that: "Hunting and fishing shall be permitted on lands and waters administered as parts of the system under applicable State and Federal laws and regulations unless, in the case of hunting, those lands or waters are within a national park or monument."

- Numerous people want to have wilderness like experiences but are unable to physically manage the demands of a true Wilderness experience, lands providing motorized access and trails, nonmotorized trails, and campgrounds are needed.

The emphasis on solitude and isolation as the primary recreational values the Service desires for the Forest is a major change from the 2002 plan, which not only emphasized that the area would "provide outstanding opportunities for solitude, quiet and isolation", but also recognized both non-motorized and motorized recreation use (both summer and winter) and more opportunities for hardened, dispersed camping sites, etc. From the Revised Land Management Plan, Chugach Forest, 2002:

Demand for recreation opportunities on the Forest is now greater than ever. Increased tourism, an increased state population and the proximity to Anchorage have combined to make the Forest the place where many people seek a variety of experiences from road accessible areas to wild and remote recreation opportunities. (p. 2-11)

We believe it is important for the Service, in its role as the primary multiple use agency in the Southcentral Region, to spell out how the various Management Areas will serve the broad array of user groups, not just those seeking solitude and isolation. As currently proposed, MA 8 Front Country, which provides a "wide variety of recreation opportunities" (p. 31) only makes up 1% of the Forest. We ask that the Service look at ways to broaden some of the recreational opportunities in other MAs.

While we understand that greater detail on management actions will be provided in forthcoming step- down plans, we believe that it is important for the Forest Plan to spell out basic tenets that will guide the development of these step-down plans in a manner the public can readily understand. For example, there are numerous references to ANILCA, with relevant citations, within the Forest Plan, but no clarification as to what is being allowed by ANILCA.

Outfitter and Guides

The recognition in the Forest Plan of the value outfitter and guides provide is useful to show their economic standpoint for local communities, as well as for the service they provide in helping more people experience the CNF. We are concerned about a statement in the EIS (page 142) that from January 2014 to present, no new outfitter/guide permit proposals have not been accepted by the Service due to a backlog of applications and a shortage of staffing, and, that at this time it is not known when new proposals will be accepted. Lack of administrative capacity and its effect on future growth for commercial opportunities in local communities limits economic productivity especially in light of the Forest Plan's stated Goal 2 to contribute to the economic sustainability of communities within the planning area, and limits non-local visitors' ability to access the forest.

We request that a goal be added under Goal 2 Contribute to Social and Economic Sustainability, Recreation, that states the Service will “Achieve adequate staffing to process outfitter/guide permits within Service offices.”

Introduction

Please provide a section in the Plan Introduction that outlines a Summary of the Changes Made between the previous Forest Plan and this 2018 Forest Plan.

Page Specific Comments

Page 4

We support the recognition of the Department’s management responsibilities on this page of the Plan but request that the language be changed to read:

The Alaska Department of Fish and Game has primary management responsibility for fish and wildlife in Alaska, ~~while the Chugach National Forest manages subsistence resources on federal lands in partnership with other federal and state agencies in consultation with Alaska Native Tribes and Corporations.~~ this includes deference to the State’s regulatory process when decisions may affect management of hunting, fishing, trapping, and wildlife viewing opportunities. The Service manages subsistence uses in the Forest in accordance with direction from the Federal Subsistence Board, the decision-making body that oversees Alaska’s unique Federal Subsistence Management Program.

We also note and support the stated intent to continue to manage the Copper River Delta Fish and Wildlife Management Area (CRDFWMA) in accord with the 1986 Memorandum of Understanding (MOU).

We request inclusion of the CRDFWMA MOU in the Forest Plan Appendices (and a reference noted on this page) since current language does describe the prescriptions followed in managing the CRDFWMA.

Page 6, Salmon

Please provide citations for the numbers and statistics cited in the summary.

Page 6, Watersheds and Wetlands and Page 14, Ecosystem Services, 7.

The first paragraph under the above section on page 6 states that: “The Forest Service issues large numbers of outfitter and guide permits each year to companies that use national forest watersheds and wetland resources.” Page 14 under Ecosystem Services, 7 states that: a desired condition is sustainable levels of goods and services such as recreation and tourism opportunities... outfitter and guide services.” Yet, as mentioned earlier, in the Draft EIS (Pg. 142) the following statement indicates that “from January 2014 to present, new outfitter/guide permit proposals have not been accepted by the Forest Service due to a backlog of applications and a shortage of staffing. It is not known at this time when new proposals will be accepted.”

Because of the economic gains seen from outfitter guide operations and the Plan Goal 2 – Contribute to Social and Economic Sustainability as well as the need to provide public access to the forest, we request a new goal 7 under desired conditions associated with Goal 2.

7. Achieve adequate staffing to process outfitter/guide permits within Service offices.

Page 11, Part 1 Vision, Goal 1 Foster Collaborative Relationships, Desired Condition 2.b.

This desired condition could imply that the Service is the primary authority related to management of fish and wildlife in National Forests. We request re-writing Desired Condition 2.b. to state the following:

The Service will work with Alaska Native Tribes and Corporations and ADF&G to ensure that renewable national forest resources (including culturally significant food resources) are maintained in a sustainable manner on Service administered lands, and are available and accessible for traditional use.

Page 11, Part 1 Vision, Goal 1 Foster Collaborative Relationships

We request you add a new Desired Condition that reflects the methods of access allowed by ANILCA on applicable lands for both subsistence and non-subsistence uses.

Page 12, Part 1 Vision, Goal 1 Foster Collaborative Relationships, Desired Condition 9

We propose rewriting Desired Condition 9 to emphasize the complexity of subsistence management in Alaska and its dependence on collaborative relationships, proposed changes are underlined:

Subsistence management in Alaska is a multi-agency effort to provide the opportunity for a subsistence way of life. In the Chugach Forest, the Service manages a broad array of subsistence resources from wood for heating and construction to grass and berries, etc. ADF&G manages the fish and wildlife resources, the Federal Subsistence Board (FSB) (which a Service representative is part of) manages subsistence allocation of fish and wildlife resources. The Service also works in constant ~~The Chugach National Forest manages subsistence resources in partnerships with other federal and state agencies and in consultation with Alaska Native Tribes and Corporations to foster cooperative management, monitoring and stewardship of natural resources consistent with the goals of ANILCA Title VIII and the decisions of the FSB.~~

Page 12, Part 1 Vision, Goal 1 Foster Collaborative Relationships.

We request that an additional desired condition 11 Be added under Goal 1, Foster Collaborative Relationships: “The Forest Service works cooperatively with the State to further management efforts.”

Page 12, Goal 2 Contribute to Social and Economic Sustainability, Introduction.

Please add multiple uses to the following sentence:

“The Chugach National Forest contributes to the social and economic sustainability of communities within the planning area by providing multiple use opportunities within the forest, by maintaining intact, resilient ...”

Page 13, Goal 2 Contribute to Social and Economic Sustainability, Desired Condition 2.

Amend to say, “.... the public is made aware of national forest contributions to providing ecosystems services, including outdoor recreation such as hunting and fishing, subsistence uses, wellness, and societal well-being.”

Page 13, Goal 2 Contribute to Social and Economic Sustainability, Desired Condition 2.

Also, please define what the terms “wellness” and “societal well-being” refer to and describe how it is measured. If the terms are undefinable in relationship to this plan, please delete them.

Page 15, Goal 2 Contribute to Social and Economic Sustainability, Subsistence Desired Condition 1

Please clarify that these management actions are taking place under the federal subsistence program.

Page 16, Desired Conditions Associated With Goal 3 Ecosystem Processes and Conditions

Please add an additional Desired Condition 7 to also reflect site specific needs for habitat management programs, such as hydroaxe.

“1. Natural disturbance regimes (e.g., glacial action, snow avalanches, earthquakes, floods, native insects and pathogens, windthrow, lightning-caused fire, and climatic variations) remain the primary mechanisms shaping the landscape and ecological communities of the plan area. 2. Natural ecological patterns and processes (Including succession) dominate the landscape of the plan area. Composition of ecological communities (plant and animal), distribution (patch size, density, shape, and connectivity), relative proportion of seral stage, and key habitat components reflect spatial and temporal patterns expected in a landscape predominantly shaped by natural disturbance processes. 3. National Forest System lands support the ecological processes and conditions necessary to maintain habitat quantity, quality, and distributions to sustain self-supporting populations of native aquatic, riparian and terrestrial plants, fish, and wildlife. 4. Terrestrial and aquatic ecosystems retain their inherent capacity to adapt effectively to shifting climatic conditions and other stressors while maintaining key ecosystem functions. 5. Native plants, fish, and wildlife are the dominant species inhabiting NFS lands, while the establishment and spread of invasive species is prevented or minimized and does not threaten ecosystem function. 6. Existing habitat connectivity is maintained to promote conservation of native aquatic, riparian, and terrestrial plants; fish; and wildlife. 7. Specific, identified fish and wildlife habitat needs are addressed through localized habitat management.”

Page 18, Goal 3, Ecosystem Processes and Conditions, Terrestrial Ecosystems, Desired Conditions 3 and 4.

Please clarify that the management activities and authorized activities are Service management activities and Service authorized activities. As currently written, these two conditions sound as if the Service manages wildlife rather than ADF&G.

Page 19/20, Kenai Peninsula Geographic Area, Recreation and Tourism, Desired Condition 2.

Because the Forest is a high use recreation destination for Southcentral Alaska residents, we request the desired conditions for recreation infrastructure, such as boat launches, parking areas, cabins, campgrounds, and trails, also consider areas of high recreational interest across the Forest, not limited to only “along the Alaska Railroad between Moose Pass and Portage.”

We request that the last sentence of Desired Condition 2 be re-written to include the entire Kenai Geographic Area, as recreation infrastructure is not limited to the area between Moose Pass and Portage, and a third desired condition be added:

2. During the summer season (May 1 through November 30), nonmotorized uses predominate across the area. These opportunities include hiking, camping, mountain biking, fishing, hunting, and mountaineering, with opportunities for canoeing, rafting,

and other forms of boating on lakes and rivers. Opportunities for off-highway vehicle use are provided on several trails designated for such use. Opportunities are available for helicopter-assisted guided and non-guided recreation activities near Girdwood and east of the Alaska Railroad from Portage to Grandview. Recreation infrastructure, such as cabins, campgrounds, and trails, is are available in many areas of the Kenai Geographic Area, including along the Alaska Railroad between Moose Pass and Portage.

3. Well-developed recreation infrastructure, such as cabins, parking areas, campgrounds and trails, will be planned for and developed in response to public interest, while balanced with resource conservation, to help the public access fish and wildlife resources for fishing, wildlife viewing, and hunting.

Page 21, Prince William Sound Geographic Area, Recreation and Tourism, Desired Condition 1.
We are concerned the wording of this could unnecessarily restrict shoreline use for hunting, fishing, and camping. Please consider the following edit:

~~“Limited~~ Shoreline areas capable of accommodating dispersed recreation use are maintained in good condition and consistent with desired use levels, including consideration of adjacent public and private lands.”

Page 21, Copper River Delta Geographic Area.

We recommend the full context of ANILCA section 501(b) be included here, as it mentions the take of fish and wildlife, as well as multiple use management, in relation to the primary purpose of the conservation of fish and wildlife and their habitat.

“The Copper River Delta Geographic Area of the Chugach National Forest is managed in accord with ANILCA 501(b), which reads: “(b) Subject to valid existing rights, lands added to the Tongass and Chugach National Forests by this section shall be administered by the Secretary in accordance with the applicable provisions of this Act and the laws, rules, and regulations applicable to the national forest system: Provided, That the conservation of fish and wildlife and their habitat shall be the primary purpose for the management of the Copper/Rude River addition and the Copper River-Bering River portion of the existing Chugach National Forest, as generally depicted on the map appropriately referenced and dated October 1978: Provided, That the taking of fish and wildlife shall be permitted within zones established by this subsection pursuant to the provisions of this Act and other applicable State and Federal law. Multiple use activities shall be permitted in a manner consistent with the conservation of fish and wildlife and their habitat as set forth in special regulations which shall be promulgated by the Secretary.”

Page 24, Management Area 1 Wilderness Study Area, Management Intent.

The Region 10 Supplement to Forest Service Manual (FSM) 2322.03 directs that plans address the specific activities allowed by ANILCA within the wilderness. We request that these allowed activities be described in enough detail for the public to understand what is allowed, without having to look up statute citations separately. To better describe management of the WSA, this section needs to discuss Service’s Alaska Wilderness Policy Supplement, R-10 2300-2008-2, to the Forest Service Manual (FSM) 23000, “Expectations Regarding State of Alaska Administrative Activities in National Forest Wilderness”, December 3, 2009 and the Association

of Fish and Wildlife Agencies (AFWA) “Policies and Guidelines for Fish and Wildlife Management in National Forest and Bureau of Land Management Wilderness” (as amended June, 2006).

ANILCA allows the following activities to occur in Wilderness:

- **Reasonable access to subsistence resources:** Section 811 ensures that rural residents engaged in subsistence uses “shall” have reasonable access to subsistence resources on all federal public lands in Alaska by use of snowmobiles, motorboats, and other means of surface transportation traditionally employed for subsistence purposes. Such access includes off-highway vehicles where such methods were used generally in the area prior to ANILCA. Such access is subject to “reasonable regulations” (which have not been adopted for Forest Service lands).
- **Existing rights of access remain valid:** Section 1109 ensures continuation of any valid right of access which existed prior to ANILCA.
- **Special Access:** Section 1110(a) ensures the use of snow machines (during periods with adequate snow cover, or frozen river conditions in the case of wild and scenic rivers), motorboats, airplanes, and nonmotorized surface transportation methods (such as skis, bicycles, dog teams, horses, and pack animals) for traditional activities “shall” be allowed on conservation system units, national recreation areas, and national conservation areas, **and those public lands designated as wilderness study.** Traditional activities include, but are not limited to, recreation activities such as fishing, hunting, boating, sightseeing, and hiking. (R-10 Supplement FSM 2326.1.6)
- **Access to inholdings:** Section 1110(b) ensures adequate and feasible access “shall” be allowed to inholdings and other valid occupiers within or effectively surrounded by conservation system units (e.g. designated monuments and Wilderness areas) **and wilderness study areas in Alaska**, including valid mining claims and subsurface rights.
- **Access for surveys to inholdings/adjacent lands:** Section 1111 allows access across conservation system units and wilderness study areas to adjacent State or private lands for the purposes of survey, geophysical, exploratory, or other temporary uses.
- **Access for communication sites, weather facilities, fisheries research, etc.:** Section 1310 allows the use of reasonable access (including off-highway vehicles) for operation and maintenance of new and existing air and water navigation aids, communication sites and related facilities, and facilities for weather, climate, and fisheries research.
- **Allows State of Alaska to conduct fishery research, management, enhancement and rehabilitation in wilderness/wilderness study areas:** Section 1315(b) authorizes the State of Alaska to conduct fishery research, management, enhancement, and rehabilitation in Forest Service wilderness and wilderness study areas. This allowance includes reasonable access including temporary use of motorized equipment for “furtherance of research, management, rehabilitation, and enhancement activities subject to reasonable regulations as the Secretary deems desirable to maintain the wilderness character, water quality, and fish and wildlife values of the area.”
- **Access for in holders:** Section 1323(a) states that “the Secretary [of Agriculture] shall provide such access to non-federally owned lands within the boundaries of the National Forest System as the Secretary deems adequate to secure to the owner the reasonable use and enjoyment thereof: Provided, that such owner comply with rules and regulations

applicable to ingress and egress to or from the National Forest System.” This access may include off-highway vehicles.

- **Temporary facilities for the take of fish and wildlife.** Section 1316 allows all equipment directly and necessarily related as a practical necessity to the taking of fish and wildlife.

Page 25, Management Area 2 Wild, Scenic, and Recreational Rivers

We request the title of this section be revised to “Recommended Wild, Scenic, and Recreational Rivers” as it is misleading to call them “Wild, Scenic, and Recreational Rivers” when Congress has failed to act on the 2002 recommendation.

The management intent under this section states that: “Until a decision is made, the recommended rivers will be managed under direction described in Forest Service Handbook 1909.12, chapter 84.3 – Interim Protection Measures for Eligible or Suitable Rivers and consistent with the National Wild and Scenic Rivers System designation classes. Chapter 80, Sections 84.2 – Management Direction for Forest Service-identified Study Rivers and Forest Service-identified eligible and suitable rivers should be added to this statement.

We point out that 84.3 states that Legislatively mandated study rivers must be protected as directed in sections 7(b), 8(b), 9(b), and 12(a), but Service-identified eligible and suitable rivers (which the rivers in this Forest Plan are) “must be protected sufficiently to maintain free flow and outstandingly remarkable values unless a determination of ineligibility or non-suitability is made.” Such Service-identified rivers should not be managed more restrictively than designated wild and scenic rivers, which are considered CSUs under ANILCA and must be managed consistent with ANILCA as well as the WSR Act. Management prescriptions resulting from the allowances in ANILCA Sec. 1110 -- access provisions (which also apply to conservation system units, national recreation areas, national conservation areas, and those public lands designated as wilderness study areas) must be identified and allowed (e.g. recreational and subsistence snow machine use when there is adequate snow cover or frozen river conditions.).

Because of the intense interest in increased recreation opportunities, we suggest adding in the allowances under 84.3 6 -- Recreation Development and 7 -- Motorized Travel, so that people are aware these uses can occur under the current management plan.

Page 27, Management Area 2 Wild, Recreational, and Scenic Rivers

We recommend changing the word “solitude” to “primitive” to align with the WSR Act:

“5. Recommended or designated wild river areas provide opportunities for *primitive* recreation.”

Page 28, Management Area 4 Backcountry Areas, Desired Conditions,

1. The MA4 Backcountry designation covers the vast majority of the road accessible portion of the forest. Many visitors desire trails and other means of accessing the MA4 portion of the forest. A desired condition should be added to reflect this since Desired Condition 1 only addresses opportunities for cross-country travel, not opportunities for the much more common trail use. We note that this area is not wilderness or a wilderness study area but a valuable recreational area providing recreational opportunities to the most heavily populated area of Alaska.

Page 28, Management Area 4 Backcountry Areas

We are disappointed that the Backcountry Groups Management Area has been eliminated in this Forest Plan revision. We believe that designation provided a recreational opportunity not presented in the current plan.

We note the Management Intent, Desired Conditions identified for Backcountry areas is essentially the four qualities of wilderness character from the Service's report Keeping It Wild (https://www.fs.fed.us/rm/pubs/rmrs_gtr212.pdf).

Desired Conditions

1. *Backcountry areas provide opportunities for **solitude** and isolation when traveling cross-country and support subsistence uses and tourism based economic opportunities.*
2. *Scenery is **natural** in appearance and exemplifies the rugged beauty of southcentral Alaska.*
3. ***Natural** ecological processes continue to operate **largely unaffected by human activities**, supporting the full diversity of **natural** habitats.*
4. *Native wildlife species are **not** displaced or **significantly affected by human disturbance** (motorized or nonmotorized) and can make effective use of important or limited habitats such as, kidding or lambing areas, concentrated nesting sites or foraging areas, and winter range.*
[Emphasis added]

Is this management intent for Backcountry Areas supported by a new Service manual or policy? We note that the 2002 Chugach plan management of backcountry areas emphasized a variety of recreational backcountry activities in natural appearing landscapes.

Instead of managing Backcountry Areas for the four qualities of wilderness character, we recommend retaining the 2002 management intent for Backcountry Areas, as many of these areas are near the road system. The Wilderness Study Area is already managed for the four qualities of wilderness character.

Page 28, Management Area 5 ANILCA 501(b) Areas, Management Intent.

This section should also include the direction in ANILCA Section 501(b) regarding the consideration of multiple uses in relation to the primary purpose of the area, conservation of fish and wildlife and their habitat.

We request deletion of multiple use activities "in a natural appearing landscape" and replace it with "in a manner consistent with the conservation of fish and wildlife and their habitat."

Also, in reference to Desired Condition No 3, "National Forest System lands continue to provide national forest users opportunities for hunting and fishing and other outdoor based recreational and commercial activities." This Desired Condition should be in all Management Areas except MA 7 Municipal Watershed, and Conditional (c) in MA 3 Research Natural Area and MA 8 Front Country.

Page 32, Scenic Byways, Desired Condition

This section should mention the possibility of developing multi-use trails along the Seward Highway, since they are currently proposed in the Portage Curve Multimodal Connector Environmental Assessment.

Page 33, Key Coastal Wetlands, Desired Conditions.

2. The State should be mentioned within this Desired Condition because of the MOU (Copper River...) specific to this area. "Other states" are mentioned, but not Alaska.

Page 36, Table 4, Wildlife and fish management and research

Please explain why wildlife and fish management and research is considered "conditional" for MA1, MA2 and MA3. We believe "suitable" is the appropriate designation.

- Developed Structures
Having reviewed Land Management Handbook 1909.12, Chapter 80, 84.3, 6 – Recreation Development and based on ANILCA's unique allowances in CSUs, we believe a "Suitable" designation is more appropriate for communication sites, energy related infrastructure and utilities, and campgrounds for the rivers designated for scenic and recreational values.
- Snow machines
We request that the use of snow machines, much like the use of fixed-wing aircraft, be added as a use or activity to Table 4. This is also in accord with ANILCA 1110(a) and 811.
- Hunting, Fishing, and other outdoor based recreational and commercial activities.
We believe these activities should also be added to Table 4.

Page 37 Aircraft on EVOS acquired lands

Recognizing that EVOS lands are managed to conserve habitat and fish and wildlife and provides for public uses that do not adversely affect habitat, we believe that the use of fixed-wing aircraft should be suitable (S) on EVOS lands as such use is considered suitable in all other areas of the Forest unless specifically restricted by the individual lands acquisition documents. Regarding helicopters, we believe the appropriate designation should be conditional (C); while EVOS doesn't go into the detail of helicopter use, it is possible that use might be appropriate in specific areas at specific times.

Page 43, Access and Infrastructure, Management Approaches.

Please consider the following edit to acknowledge the importance of providing public access: "Install barriers, or signs, or provide dedicated parking, to prevent roadside parking wherever necessary for safety and to protect natural resources."

Page 45, Forestwide Objectives and Management Approaches, Ecological Sustainability Strategy, Terrestrial Ecosystems, Management Approaches

Regarding wildlife habitat projects, including hydroaxe projects, we support the identification of desired conditions in advance and monitoring to determine when desired conditions are achieved. ADF&G staff are available to cooperate on identification of wildlife habitat project needs and should be consulted to maintain consistency between Service habitat interests and ADF&G wildlife goals and objectives.

We request that the following item recommend identifying desired conditions on a project specific basis:

- "Plan and implement habitat enhancement, prescribed fire, hazardous fuel reduction, and other treatments on a project specific basis, as well as in an integrated landscape context, identifying desired conditions and the expected range of seral stages.

Page 50, Management Objectives and Management Approaches, Management Area 1
Wilderness Study Area

Please include reference to ANILCA 1310 which provides for the construction, operation and maintenance of facilities for navigation, communications, climate and fisheries management for Management Approaches 1 and 2 and reference the following guidance documents for fisheries -
- “Expectations Regarding State of Alaska Administrative Activities in National Forest Wilderness”, December 3, 2009 and the Association of Fish and Wildlife Agencies (AFWA) “Policies and Guidelines for Fish and Wildlife Management in National Forest and Bureau of Land Management Wilderness” (as amended June, 2006).

Page 50, Management Objectives and Management Approaches, Management Area 1
Wilderness Study Area

In regards to Management Approach 6, which states that national protocols for designated wilderness areas will be used as a guide in selecting recreation site and recreational opportunity inventory protocols for the wilderness study area, we request that national protocols be used in conjunction with the R10 Supplement FSM 2300 – Recreation, Wilderness and Related Resource Management, R-10 2300-2008-2 and the following guidance documents, “Expectations Regarding State of Alaska Administrative Activities in National Forest Wilderness”, December 3, 2009 and the Association of Fish and Wildlife Agencies (AFWA) “Policies and Guidelines for Fish and Wildlife Management in National Forest and Bureau of Land Management Wilderness” (as amended June, 2006).

Page 50, Management Objectives and Management Approaches, Management Area 1
Wilderness Study Area

We request that an additional Management Approach, similar to the approach for EVOS surveys, be added to MA1,

Support and authorize ADF&G fish and wildlife management and research, which may include, among other activities, helicopter landings, counts and observations of fish and wildlife, capturing and marking of animals, radio telemetry and GPS tracking, genetic sampling, and occasional installations such as cameras or scientific apparatus, through special use permits if permits are required.

Page 50, Management Objectives and Management Approaches, Management Area 1
Wilderness Study Area

We request an additional Management Approach that outlines how the Minimum Requirement Analysis will be conducted, we propose the language below.

The minimum requirement concept will be applied to the prohibited uses in Section 4(c) of the Wilderness Act, including proposals for temporary roads, motorized equipment, forms of mechanical transport, use of helicopters, etc, unless authorized under ANILCA. When determining the minimum requirement, the potential disruption of wilderness character and resources will be considered and given priority over convenience. If a compromise of wilderness resources or character is unavoidable, actions that preserve wilderness character and/or have localized, short-term adverse impacts will have priority.

The minimum requirement concept is to be applied as a two-step process that determines:

- a. whether a proposed management action is necessary for the administration of the area as wilderness and does not pose a significant impact to the wilderness resources and character; and
- b. if the project is necessary in wilderness, the selection of the management method (tool) that causes the least amount of impact to the physical resources and experiential qualities (character) of wilderness.

Page 54, Part 3 – Design Criteria, Wildlife Management, Social and Economic Sustainability, Recreation and Recreation Special Uses

Item 3 in this section states: “To maintain the federal rural subsistence priority of fish and wildlife for qualified rural Alaska residents of State Game Management Unit 6C, outfitting and guiding special use permits for fishing and hunting in the western portion of the Copper River Delta (Game Management Unit 6C) shall not be authorized.” [Standard]

Outfitting and guiding opportunities are extremely important to the economy of Southcentral Alaska. In addition, the State owns and manages the tidal and submerged lands adjacent to Service uplands and is responsible for the sustainability and management of all fish and wildlife, including for subsistence purposes, regardless of land ownership or designation, unless specifically preempted by federal law. Because of the importance of commercial and recreational activities to State interests, we request an opportunity to work with the Forest Service on this issue prior to publication of the Final Forest Plan.

The Federal Subsistence Board assures a priority under ANILCA Title VIII for subsistence opportunities among consumptive uses of fish and wildlife by rural residents on federal lands. At times, the state and federal Boards have worked together to address issues of mutual concern. Any unilateral efforts by the Service to minimize user conflicts, based solely on allocation concerns, would circumvent these existing regulatory processes.

Page 68, At-risk Species Habitat Management

Based on input from our staff biologists, we request that the following underlined changes be made to the timing restrictions outlined as a management action related to the dusky Canada Goose.

“6. Management actions and authorized activities should incorporate measures, such as seasonal or daily activity restrictions, low impact operational methods, and vehicle restrictions to minimize human disturbance to nesting habitat (March 15 through May 30), molting and brood rearing habitat (July 1 through August 15), and high-use staging areas (September 1 through October 31) for dusky Canada geese. [Guideline]”

Page 68, Marine Mammal Habitat Management

Based on input from our staff biologists, we request that the following underlined changes be made to the distance restrictions outlined as a management action related to separation distances from marine mammals. These changes are requested because, under the Marine Mammal Protection Act marine mammals are protected from disturbances (including changing behavior) period, with no set distance given:

- a. Actions or activities within 750 feet, or at greater distances if causing a disturbance, of any sea lion or seal hauled out on land should be delayed until the animal(s) depart the area.
- b. Any actions or activities conducted within 750, or at greater distances if causing a disturbance, feet of any sea lion or seal hauled out on land must be designed and implemented to prevent the animal from flushing. [Guideline]

Page 70 Waterfowl and Shorebird Habitat Management

Based on input from our staff biologists, we request that Management Standard 19 be re-written, as shown below:

Management actions and authorized activities should be designed to minimize disturbance within 330 feet of designated key nesting areas or intertidal concentration areas used by waterfowl, especially dusky Canada geese (March 15 through May 30, July 1 through August 15 and September 1 through October 31) and shorebirds (April 20 through May 30 and July 15 through October 10).

Page 72, Management Area Standards and Guidelines, Management Area 1 WSA.

FSM2300 Recreation, Wilderness and Related Resource Management, Chapter 2320 – Wilderness Management, Regional Supplement No.: R-10 2300-2008-2, requires a number of topics to be addressed through the Forest Plan and subsequently developed Wilderness Implementation Schedules. Some of these are addressed; however, please ensure all items such as subsistence and other activities occurring within the wilderness are included within the plan, we noted the following items did not appear to be addressed.

- (2) Recreation use.
- (4) Cultural Resources including inventory, evaluation, protection of sites and areas, treatment, and appropriate interpretation.
- (10) Temporary facilities related to the taking of fish and wildlife. Identify the locations and levels of existing use of temporary facilities, provide standards and guidelines for the administration of them, and address the authorization or denial of new temporary facilities.
- (11) Scientific/geological/ecological study activities and uses.
- (12) Minerals exploration and management of valid claims.
- (13) Fire protection and use of prescribed fire to accomplish wilderness management objectives.
- (15) Visual resource management.
- (16) Recreation facilities.
- (17) Commercial visitor services within wilderness. Include an inventory of pre-ANILCA visitor services that qualify under the "grandfather" provisions of Section 1307 of ANILCA. The allocation of new outfitting and guiding permits shall be addressed.
- (18) Recreation places. Inventory popular beaches, lakes, recreational boat anchorages, and other special recreation places.

(19) Trails.

(20) Wilderness boundary survey and marking.

Item 2. Please include either a brief description of the ANILCA allowances (summarized below) when they are mentioned or add a section in the plan where people can easily refer to descriptions of what ANILCA allows, e.g., sections 1303 (protections for existing cabins and other structures existing prior to December 18, 1973), 1310 (construction of navigation aids and other facilities), 1314 (taking of fish and wildlife), 1315 (Wilderness Allowances [aquaculture and cabins]), 1316 (Allowed Uses, taking of fish and wildlife), and 1323 (Access)

Please add 1310 – which allows for the construction, operation and maintenance of both existing facilities (1310(a)), and new facilities (1310(b)), for navigation, communications, climate and fisheries management.

Please add 1315(b) – allows fisheries research, management, enhancement, and rehabilitation activities within national forest wilderness and national forest wilderness study areas designated by ANILCA. Subject to reasonable regulations permanent improvements and facilities such as fishways, fish weirs, fish ladders, fish hatcheries, spawning channels, stream clearance, egg planting, and other accepted means of maintaining, enhancing, and rehabilitating fish stocks may be permitted.

Please add 1315(c) -- Previously existing public use cabins within wilderness designated by this Act, may be permitted to continue and may be maintained or replaced subject to such restrictions as the Secretary deems necessary to preserve the wilderness character of the area

Please add 1315(d) -- construct and maintain a limited number of new public use cabins and shelters if such cabins and shelters are necessary for the protection of the public health and safety. In addition, the Secretary of Agriculture shall notify the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources of his intention to remove an existing or construct a new public use cabin or shelter.

Please add 1316 -- which permits the taking of fish and wildlife in accordance with the provisions of ANILCA or other applicable State and Federal law subject to reasonable regulation to insure compatibility, the continuance of existing uses, and the future establishment, and use, of temporary campsites, tent platforms, shelters, and other temporary facilities and equipment directly and necessarily related to such activities.

Please add 1323 (Access) – which ensures that adequate access is provided to non-federally owned land within the boundaries of the Forest.

d. Please state what these other activities are so readers do not have to hunt through the document.

Item 3. Please outline when new permanent structures and improvements will be authorized.

a. 1303(b) – are there any 1303(b) cabins in the Nellie Juan WSA?

Item 4. Please word this to acknowledge when the use of chainsaws, generators, etc. will be allowed.

Item 4. In addition, we note that Item 4 states that: “The use of chainsaws, generators, and other motorized equipment, mechanized equipment or mechanical transport....” We point out that mechanized equipment is not prohibited by the Wilderness Act. Also, nonmotorized transport, which includes mechanized transport, is allowed for access for traditional activities under ANILCA Section 1110(a). Is it the intent of the Service to not authorize mechanized transport, such as bicycles in the WSA? If so, we do not believe this exclusion has been made clear to the general public during this public review process and the Service should make its intentions known.

Item 8. Please clarify that shore ties, shore caches, waterlines or other onshore facilities associated with fisheries, including commercial fisheries, are allowed according by ANILCA Section 1316.

9. Please state what the applicable ANILCA provisions cover.

10. and 11. We request that this section be revised to note that snow machine use, as authorized by ANILCA, is allowed for subsistence (ANILCA 811), access for traditional activities including recreation (1110), fisheries research, management, enhancement, and rehabilitation activities (1315(b)), and hunting and fishing activities (1316).

Page 72, Management Area 1 Wilderness Study Area

Management Standard 5. Indicates that a minimum requirement analysis (MRA) is necessary prior to authorizing any use of motorized equipment and mechanical transport related to reconstruction, operation, and maintenance of existing authorized non-federal infrastructure and improvements or prior to authorizing new uses that require use of motorized equipment and mechanical transport. As written it appears to require MRAs for activities the Forest Supervisor is directed to allow for both the public and agency staff (both Service staff and other governmental agency staff) in the R10 supplement FSM 2326.1, please re-write this standard to include direction provided in 2326.1. We also point out that under 2322.03 – Policy, it states, under item 6, 3rd paragraph, line 4: “the minimum requirement concept will be applied to the prohibited uses in Section 4(c) of the Wilderness Act, ... unless authorized by ANILCA or other authorizing legislation.”

ANILCA Section 1315(b) allows fishery research, management, enhancement, and rehabilitation activities within the WSA. This can include fishways, fish weirs, fish ladders, fish hatcheries, spawning channels, stream clearance, egg planting, and other accepted means of maintaining, enhancing, and rehabilitating fish stocks. The regional supplement to FSM 2320 further describes the implementation of 1315(b) and directs how the Service will exercise its discretionary authority to allow such activities. Both ANILCA 1315(b) and the regional supplement FSM 2323.35b should be included in the suitability guidance for Soil and Watershed Projects. Additionally, the AFWA document “Policies and Guidelines for Fish and Wildlife Management in the National Forest and Bureau of Land Management Wilderness” includes agreed upon guidance for how fisheries and wildlife habitat projects can be implemented in wilderness. This section should also acknowledge that the existing regional policy allows administrative access using the 1110(a) methods of access: FSM 2326.1.7 Administrative Use “The administrative use of motorized equipment will be limited to the following:

a. Access

(1) Airplanes, motorboats, and snow machines as described for public use.”

Page 72.

Please add the underlined language from R10 Supplement FSM 2324.24 Other Agency Structures, to the paragraph below...

“6. Changes to existing permitted facilities for existing air and water navigation aids, communications sites and related facilities, weather, climate, and fisheries research and monitoring should minimize impacts to the wilderness study area’s presently existing character without unreasonably limiting the access, operation, and maintenance of permitted facilities. [Guideline]”

Page 73, Management Area 1 Wilderness Study Area.

Please revise to note that snow machine use is allowed for traditional activities including recreation, subsistence access, and in holder access unless specifically prohibited under provisions of ANILCA and to clarify when and where it is allowed.

“10. Snow machine use will not be authorized, except as provided for by ANILCA (section 811, 1110, 1315(b), 1316). [Standard]”

Page 74, Management Area 1, Wilderness Study Area, Forest Service Administrative Activities and Facilities

24 c. states that the “Proposed use of motorized equipment or mechanical forms of transport should be considered in evaluating the need for aquaculture projects, fish habitat improvements, or wildlife habitat improvement projects.” This directive contradicts ANILCA 1315(b) which states that reasonable access solely for the purposes of this subsection, including temporary use of motorized equipment shall be permitted in furtherance of research management, rehabilitation and enhancement activities subject to regulation. Because of this conflict we request deletion of item c.

Page 83, Appendix A, Tables 15-23 Monitoring questions and associated indicators

Please include suggested general methods of monitoring as part of each Table. For example, in Goal 3 Desired Conditions Watersheds, include suggested methods such as monitor water quality at selected locations to provide baseline information and/or ensure stormwater control best management practices are installed at any construction site on Service land, as part of each table.

Page 108, Section 810 Analysis.

While we appreciate that the Service recognizes ANILCA Section 810 and evaluates the effects of various uses of public lands on subsistence uses and needs, an evaluation should be prepared for this Forest Plan to consider how actions being proposed may affect subsistence uses or needs. The subsistence discussion in the Forest Plan appears to have much of the needed information.

Page 114 and 115 Twentymile WSR Suitability

Why is the Twentymile WSR suitability boundary excessively wide? The Alaska withdrawal standard found in Sec. 606 of ANILCA extends to a ½ mile of the bank of a wild and scenic river. The boundary should be reduced to reflect this.

Appendix F – General Comment

Many of the activities listed in this Appendix F contain a condition requiring the consideration of the proposed use of motorized equipment and/or mechanical forms of transport. As noted in our

comment to Guideline 24, p. 74, please clarify the situations where R10 supplement 2300-2008-2 allows such uses in accordance with ANILCA.

Page 125, Conditional in MA1, Soil and Watershed Projects.

Regional policy FSM 2320 allows for uses specified in ANILCA. Please list these uses so that people are aware of what is allowed. Also, the existing regional policy allows administrative access using the 1110(a) methods of access: FSM 2326.1.7 Administrative Use “The administrative use of motorized equipment will be limited to the following:

a. Access

(1) Airplanes, motorboats, and snow machines as described for public use.”

p. 125. Wildlife and Fish—Management and Research.

ANILCA 1315(b) states that the Secretary of Agriculture may permit fisheries research, management, enhancement, and rehabilitation activities within the WSA; and, subject to reasonable regulation permanent improvements and facilities. Fixed-wing aircraft, motorboats, and snow machines may be used for administrative uses, other motorized transportation modes (e.g., helicopters) and equipment may be authorized after a minimum requirements analysis. This section also allows temporary use for motorized equipment for these activities. Please incorporate these policies into this use/activity bullet.

We request this section be revised to incorporate what ANILCA and R10 Supplemental FSM 2323.35b specifically allows for fisheries work.

Page 162-163, Past Activities

The EIS includes a general description of ANILCA and its allowed activities on pages 162 and 163. We propose the last paragraph on page 162 that carries over onto page 163 be replaced with the following, which more accurately captures ANILCA’s intent. Underlined text indicates the proposed changes.

When ANILCA was passed by Congress in 1980, it included provisions that allowed activities, such as fisheries enhancement work, subsistence fishing and hunting, specified uses of motorized equipment and mechanical transport, continued use of existing private cabins that were connected to the taking of fish and wildlife, and the right to access State and private lands within the wilderness study area. Activities that result in infrastructure development, motorized noises, and changes to the natural condition are allowed even though they may affect the character of the wilderness study area.

All Alaska residents may participate in subsistence activities; in accordance with State hunting regulations. However, on federal public lands, subsistence is additionally regulated under ANILCA Title VIII and regulations set by the Federal Subsistence Board. ANILCA Title VIII grants subsistence priority to federally qualified rural residents. ANILCA Section 811 allows the use by federally qualified subsistence users of snow machines, motorboats, and other means of surface transport traditionally used to access areas for subsistence. The use of motorized equipment is authorized by permit.

ANILCA Section 1110(b) allows residents and non-residents to may use snowmobiles, motorboats, and airplanes and non-motorized methods of transportation, such as bicycles and dog teams. Motorized equipment, such as chainsaws, are allowed for activities

directly related to the taking of fish and wildlife; however, such activities must be authorized with a permit.

ANILCA Section 1316 allows temporary facilities and equipment directly and necessarily related to the taking of fish and wildlife, things such as meat caches and tent platforms and the use of chainsaws, etc. fall under this category.

Page 169, fourth paragraph, last sentence.

Thank you for noting that the marine waters and navigable waters are not under the jurisdiction of the Service and are not included in management direction. While maintaining our previous objections to the wild and scenic river studies, we request that state ownership of navigable waters be recognized and factored into any WSR recommendations and proposed interim management decisions.

MAPS 44-47 Recreation Opportunity Spectrum

We note that there are at least two instances where the Recreational Opportunity Spectrum identified for alternative A, in the current plan, is not correct. These mistakes are then carried forward across all the alternatives. We request that the following currently allowed uses be identified as allowed across all of the alternatives.

1. The western half of the Twentymile River valley is identified as Semi-Primitive Non-Motorized; however, this area should be identified Semi-Primitive Non-Motorized (Winter Motorized Allowed) as a corridor is annually opened to snow machine use when there is adequate snowfall.
2. The Johnson Pass Trail from Turnagain Pass south to Bench River is currently open to ATV use in the summer and should be labeled Semi-Primitive Motorized.

We also request that the document be reviewed to correct where the document has carried forward these mistakes across all alternatives.

We appreciate the opportunity to review and comment on the draft Forest Plan. We are available for follow-up discussions with the Service on the issues raised in these comments.

Sincerely,



Charles Pinckney

Natural Resource Specialist III